



DOCKET NO: C01104/70016

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kevin J. Dowling et al.  
Serial No: 09/805,590  
Confirmation No: 1160  
Filed: March 13, 2001  
For: LIGHT-EMITTING DIODE BASED PRODUCTS  
Examiner: A, Minh D.  
Art Unit: 2821

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**CERTIFICATE OF MAILING UNDER 37 CFR §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop: RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 1 day of April, 2005.

  
Jeanne W. Chub

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Mail Stop: RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir/Madam:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicants request consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

This Information Disclosure Statement has been filed before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. §1.114.

No fee or certification is required.

**PART II: Information Cited**

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicants also wish to bring to the attention of the Examiner the following information:

Pursuant to MPEP §2001.06(c), Applicants bring to the Examiner's attention that two U.S. patents relating to the present application have been involved in litigation. These patents include U.S. Patent No. 6,016,038 and U.S. Patent No. 6,150,774, assigned to Color Kinetics, Inc. The present application is entitled to the benefit of at least one of these two patents, under 35 U.S.C. §120.

The aforementioned patents both are involved in the litigation Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts.

Applicants acknowledge the duty to disclose to the U.S. Patent Office material information that may arise from these litigations, including evidence of possible prior public use or sales, questions of inventorship, prior art, allegations of "fraud," "inequitable conduct," and "violation of duty of disclosure," or any assertion which is contradictory to assertions made to the Examiner during prosecution of the present application.

To this end, Applicants wish to make of record in the present application the following document from the litigations, together with all exhibits filed therewith:

- Color Kinetics Incorporated v. Super Vision International, Inc., "Expert Witness Rebuttal Report of Dr. David I. Kennedy Prepared and Submitted on Behalf of Super Vision International, Inc."
- Color Kinetics Incorporated v. Super Vision International, Inc., "Super Vision International, Inc.'s Motion for Summary Judgment Against Color Kinetics, Inc."
- Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on the Issue of Infringement"
- Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on the Issue of Invalidity"
- Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on Super Vision's 'Badmouthing' Claims"
- Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on the Issue of Inequitable Conduct"
- Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Opening Memorandum Concerning Claim Construction"

- Color Kinetics Incorporated v. Super Vision International, Inc., “Super Vision International, Inc.’s Response to Color Kinetics’ Motion for Summary Judgment on the Issue of Inequitable Conduct.”
- Color Kinetics Incorporated v. Super Vision International, Inc., “Super Vision International, Inc.’s Response to Color Kinetics’ Motion for Summary Judgment on the Issue of Infringement”
- Color Kinetics Incorporated v. Super Vision International, Inc., “Super Vision International, Inc.’s Response to Color Kinetics’ Motion for Summary Judgment on the Issue of Invalidity”
- Color Kinetics Incorporated v. Super Vision International, Inc., “Super Vision International, Inc.’s Response to Color Kinetics’ Opening Memorandum Concerning Claim Construction”

Applicants make no representation that the above-identified document(s) provide information material to the examination of the present application. Applicants make these documents of record in the present application primarily for completeness to facilitate the Examiner’s understanding of the nature of the litigation. The Examiner is urged to form his or her own conclusion regarding the relevance of the information contained in these documents.

### PART III: Additional Remarks

Documents cited on the attached form PTO-1449 (modified) are enclosed unless otherwise indicated on the attached form PTO-1449 (modified). It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicants make no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicants, again the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

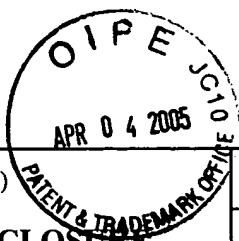
An early and favorable action is hereby requested.

Respectfully submitted,

By: 

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April 7, 2005



FORM PTO-1449/A and B (Modified)  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				APPLICATION NO.: 09/805,590		ATTY. DOCKET NO.: C01104/70016	
				FILING DATE: March 13, 2001			
				APPLICANT: Kevin J. Dowling			
				GROUP ART UNIT: 2821		EXAMINER A, Minh D	
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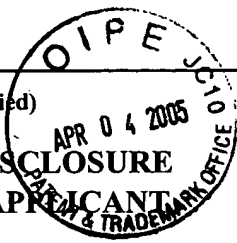
#### U.S. PATENT DOCUMENTS

Examiner's Initials#	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
		1,603,055		R.G. Williams	10/12/1926
		2,591,650		R.G. Williams	04/01/1952
		2,642,553		R.G. Williams	06/16/1953
		2,644,912		R.G. Williams	07/07/1953
		2,651,743		R.G. Williams	09/08/1953
		2,657,338		R.G. Williams	10/27/1953
		2,686,866		R.G. Williams	08/17/1954
		2,673,923		R.G. Williams	03/30/1954
		3,037,110		R.G. Williams	05/29/1962
		4,470,044		Bell	09/04/1984
		5,519,496		Borgert et al.	05/21/1996
		5,577,832		Lodhie	11/26/1996
		6,023,255		Bell	02/08/2000
		6,787,999	B2	Stimac et al.	09/07/2004

#### FOREIGN PATENT DOCUMENTS

Examiner's Initials	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document (not necessary)	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/ Country	Number	Kind Code			
		GB	238,327			08/20/1925	
		GB	238,997			09/03/1925	
		GB	271,212			05/26/1927	
		GB	296,884			09/13/1928	
		GB	296,885			09/13/1928	
		GB	325,218			02/12/1930	
		GB	368,113			03/03/1932	
		GB	376,744			07/11/1932	
		GB	396,790			08/09/1933	
		GB	411,868			06/14/1934	
		GB	412,217			06/21/1934	
		GB	438,884			11/25/1935	
		GB	441,461			01/13/1936	
		GB	480,126			02/17/1938	
		GB	481,167			03/07/1938	
		GB	512,425			09/15/1939	
		GB	640,693			09/25/1950	
		GB	646,642			11/29/1950	

FORM PTO-1449/A and B (Modified)		APPLICATION NO.: 09/805,590	ATTY. DOCKET NO.: C01104/70016
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		APPLICANT: Kevin J. Dowling	
		GROUP ART UNIT: 2821	EXAMINER: A, Minh D
Sheet 2 of 2			



		GB	661,083			11/14/1951	
		GB	685,209			12/31/1952	
		GB	686,746			0/28/1953	
		GB	712,050			07/14/1954	
		GB	718,535			11/17/1954	
		GB	942,630			11/27/1963	
		JP	2-269939			11/05/1990	Y

**OTHER ART — NON PATENT LITERATURE DOCUMENTS**

Examiner's Initials#	Cite No	Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)
		United States District Court District of Massachusetts, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Expert Witness Rebuttal Report of Dr. David I. Kennedy Prepared and Submitted on Behalf of Super Vision International, Inc."	
		United States District Court District of Massachusetts, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Super Vision International, Inc.'s Motion for Summary Judgment Against Color Kinetics, Inc."	
		United States District Court District of Massachusetts, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on the Issue of Infringement"	
		United States District Court District of Massachusetts, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on the Issue of Invalidity"	
		United States District Court District of Massachusetts, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on Super Vision's 'Badmouthing' Claims"	
		United States District Court District of Massachusetts, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Memorandum in Support of its Motion for Summary Judgment on the Issue of Inequitable Conduct"	
		United States District Court District of Massachusetts, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Color Kinetics' Opening Memorandum Concerning Claim Construction"	
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		United States District Court, Case No. 02 CV 11137 MEL, Color Kinetics Incorporated v. Super Vision International, Inc., "Super Vision International, Inc.'s Response to Color Kinetics' Opening Memorandum Concerning Claim Construction"	
EXAMINER		DATE CONSIDERED	

#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.